42D CONGRESS, 2d *Session.* } HOUSE OF REPRESENTATIVES. { Ex. Doc. No. 287.

DIFFICULTIES IN CHEROKEE COUNTRY.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

IN ANSWER TO

A resolution of the House of Representatives of April 29, relative to the recent difficulties in the Cherokee Country.

MAY 11, 1872.—Referred to the Committee on the Judiciary and ordered to be printed.

To the Speaker of the House of Representatives:

I herewith communicate to the House of Representatives a report of this date, from the Acting Secretary of the Interior, in answer to the resolution of that body adopted on the 29th ultimo, calling for information relative to the recent affray at the court-house in Going Snake district, Indian Territory.

In view of the feeling of hostility which exists between the Cherokees and the United States authorities of the western district of Arkansas, it seems to be necessary that Congress should adopt such measures as will tend to allay that feeling and at the same time secure the enforcement of the laws in that Territory.

I therefore concur with the Acting Secretary of the Interior in suggesting the adoption of a pending bill for the erection of a United States judicial district within the Indian Territory as a measure which will afford the most immediate remedy for the existing troubles.

U. S. GRANT.

EXECUTIVE MANSION, *May* 10, 1872.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., May 8, 1872.

SIR: On the 1st instant this Department received, by Executive reference of the 30th ultimo, a resolution of the House of Representatives in the following words, viz:

"FORTY-SECOND CONGRESS, SECOND SESSION.

"CONGRESS OF THE UNITED STATES,
"*In the House of Representatives, April* 29, 1872.

"On motion of Mr. Shanks,

"*Resolved*, That the President be requested to inform the House of all the facts connected with the recent difficulties in the Cherokee country, in the Indian Territory.

"Attest:

"EDWARD McPHERSON,
"*Clerk*,
"By CLINTON LLOYD,
"*Chief Clerk House of Representatives.*"

I now have the honor to transmit herewith copies of all papers received to this date, containing information in relation to the subject of said resolution.

It will be observed that there is a wide difference in the detail of the circumstances attending the riot, as stated by the United States marshal and by the reports of the Cherokee authorities. The feeling between the United States officers and the citizens of the Indian Territory is very bitter, growing out of the anomalous condition of things in that Territory.

This unfortunate occurrence is but the natural result of the hostile feeling which has existed for some time between the residents of the Indian Territory and the United States authorities in the western district of Arkansas.

Many whites have been adopted into the Cherokee Nation, and the Indian authorities claim the same jurisdiction over such adopted citizens as is accorded by our laws to persons of Indian blood. This right seems to be denied by the United States court having jurisdiction over the Territory, and, on account of such difference, questions of jurisdiction are continually arising which engender very bitter feeling. Some such question seems to have been at the foundation of the recent riot.

The unfortunate occurrence at Going Snake court-house, and the unmistakably hostile feeling which has been referred to as existing between the authorities of the Indian Territory and of the United States, would seem to call for some action by Congress, to prevent a repetition of the acts of violence and harmonize the differences between them.

The bill now pending in Congress for the erection of a judicial district in the Indian Territory, seems to be the most practicable means of accomplishing the purpose. It is authorized by the treaty with the Cherokees concluded on the 19th of July, 1866, and I would, therefore, respectfully urge the passage of said bill at an early day.

I am, sir, with great respect, your obedient servant,

B. R. COWEN,
Acting Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., May 6, 1872.

SIR: I have the honor to submit herewith, for your information, slips of newspapers, (four in number,) giving an account of the attack on Deputy United States Marshals J. G. Owens and Peavy, and their *posse comitatus*, at Going Snake district court-house, Cherokee country, together with copy of certified copy of a demand made by Deputy United States Marshal Charles F. Robinson on Lewis Downing, esq., principal chief of the Cherokee Nation, for the surrender of certain Cherokee citizens, who, it is alleged, participated in said attack, transmitted to this office by Superintendent Hoag, with his letter of the 29th ultimo, a copy of which is also herewith inclosed.

Very respectfully, your obedient servant,

F. A. WALKER,
Commissioner.

The honorable SECRETARY OF THE INTERIOR.

OFFICE OF SUPERINTENDENT INDIAN AFFAIRS,
Lawrence, Kansas, April 29, 1872.

In pursuance of instructions contained in Department telegram of 23d instant, I proceeded to Tahlequah on the 24th, accompanied by Hon. A. R. Banks, and on careful inquiry and from evidence deemed the most reliable, I submit herewith my report.

An exciting difference had for some time existed between Ezekiel Proctor, a native Cherokee, and one Chesterson, a white man, both having married sisters of Cherokee extraction; consequently Chesterson is by Cherokee laws and customs an adopted citizen, and entitled to all the rights of citizenship. During an excited dispute Proctor, it is alleged, attempted to shoot Chesterson, when the discharge of his weapon took fatal effect upon the person of the wife of the latter, upon which Proctor was arrested, and held for trial for the murder of the woman, in pursuance of Cherokee law. The case was continued and again set for trial on the 15th instant, at which time the verdict was expected to be rendered by a properly constituted court of the nation. While the counsel for the defense was reviewing the evidence, the court was interrupted by the approach of several deputy United States marshals, with an advance *posse* armed with guns, some of which *posse* were near relatives of the deceased, and were known to be determined on the conviction or rescue of the prisoner, ordered the sheriff to recede, and leveled a gun at the prisoner's body, who, while attempting to ward it aside, received the discharge in his leg, and at the same time the contents of another gun was discharged into the body of the prisoner's counsel. The guard, acting in the discharge of their duty, at one repelled the murderous attack, and the result was, as already reported, in the killing of ten or eleven, and the wounding of several others.

This unfortunate scene was ended in a few minutes, and the excitement and confusion which necessarily prevailed precludes the possibility of accurate and concurrent testimony, but as information deemed the most reliable, I inclose herewith the official statement of the sheriff addressed to the Executive, (marked A.) He was in attendance upon the court, and witnessed the whole affair. I also inclose statement of W. P. Boudinot, editor of the Cherokee Advocate, (B,) who reached the spot in time to witness the closing of the affray. The evidence of these two individuals corroborates the facts gathered from other apparently reliable sources, and is believed to be substantially correct.

I inclose slip from the Arkansas Mountain Echo, in which the writer claims that said marshal and *posse* were first fired upon from the court-room, but it will be observed that the writer asserts that his "informant was S. Beck," a Cherokee, and that he was standing *in the court-house door when the firing first commenced, and that he fired the second shot himself.* As the first discharge was at the prisoner, and the second at his counsel, and this Beck, by his own testimony, was in the door and fired the second shot, (which was within an instant of the first discharge,) he evidently condemns his own statement, and strengthens the evidence contained in A and B.

From the best information I have been able to glean, it appears that the Becks, near relations of the woman killed by Proctor, and others of their comrades, were fearful of the acquittal of the prisoner, and were deeply interested in his rescue from Cherokee authority, and for this reason had procured the presence of said United States marshals to secure his transfer to the Federal courts, and that their near approach headed by Beck discharging his gun into the court-room, left no alternative to the prisoner's guard, under their laws, but to defend the person of the prisoner in their keeping.

The execution of their own laws has been accorded to the Cherokee Nation. Even in the provision for a Federal court within their Territory in the treaty of 1866, their rights were so guarded in this respect as to provide "That the judicial tribunals of the nation shall be allowed to retain exclusive jurisdiction *in all* civil and *criminal* cases arising within their country, in which *members of the nation* by nativity *or adoption* shall be the only parties," as they are in this case. There appears, however, to be an unfortunate conflict of jurisdiction by the United States claiming continuance of jurisdiction over United States citizens who have become Cherokee adopted citizens, in certain cases. I inclose copy of demand by Deputy United States Marshal Robinson on the Cherokee executive for the surrender of persons, including the jury alleged to have attacked the marshals and their *posse*, (D.) Said demand was not acceded to by the executive, but referred (as I was informed) to his council for consideration.

I believe the Cherokee authorities desire scrupulously to pursue the course prescribed by their laws and treaties, and without a renewal of conflict, if left to themselves.

Respectfully,

ENOCH HOAG,
Superintendent of Indian Affairs.

Hon. F. A. WALKER,
Commissioner Indian Affairs, Washington, D. C.

[From the Cherokee Advocate, April 20, 1872.]

A.

The following is the official report of the tragedy in Going Snake district:

GOING SNAKE DISTRICT, *April* 16, 1872.

To his Excellency Lewis Downing, Principal Chief Cherokee Nation:

SIR: In my capacity of sheriff, and as an executive officer of the government, I deem it my duty to report to you an event connected with my position and duties, which may be or may become of national importance.

Ezekiel Proctor, a citizen by birth of the Cherokee Nation, had been arrested by me, or rather had been held under arrest by me, (he having voluntarily submitted himself for trial,) and on yesterday, the 15th instant, his trial was progressing at the regular place of holding court in this district. Previously, that is at the second calling of the court in this case, I had been applied to by a person professing to be a United States deputy marshal, to relinquish possession of said prisoner to him in pursuance of a writ said by him to have been obtained outside of this nation. This application I refused decisively, being assured that I should be quit of my lawful obligation to hold any citizen, once legally arrested, only upon an order from my superior executive officer, to wit:

the acting principal chief, and such order had not been produced. The person referred to, claiming to be a United States deputy marshal, received my decision and reply with expressions of such plain indifference, if not contempt, of the course of justice of our nation, and also with such evident intention of returning to accomplish his purpose by force, that I felt authorized to and did increase the guard to a number sufficient in my opinion to overawe all such attempts. This I did under the view that as I had decided not to deliver the prisoner up, it was my consistent duty to guard and protect him against being violently taken from under my charge by any person not having proper authority to make demand for him. So the matter stood till the temporary adjournment of the court, caused by certain charges made, as I understood, by the prosecution against the presiding judge, since which time the number of guard was reduced to the customary limit, nothing having been heard further of any attempts to be made to rescue the prisoner from the Cherokee authorities.

Matters were in this position up to yesterday, when, while the court was in session, an assault was made upon the court by a party of white men and Cherokee citizens combined, with the plain purpose of either taking the prisoner by force or killing him. The said assault was made in this manner, to wit: While the court was peaceably progressing, a party of about ten men, most of them white, and some entire strangers to me, headed by a Cherokee concerned in the prosecution of the case, came riding up to the court ground, dismounted, formed in column, and marched toward the court-house, cocking their guns on the way. No notice was taken of them by address, nor did they say a word until one of the foremost, named Sut Beck, having a double-barreled shot-gun in his hand cocked and presented, gave me an order to get out of the way, and a moment afterward one of the same party fired into the house at some one, said to be the prisoner. The fact that the party was led by the most active of those engaged in prosecuting, and their unmistakable hostile demonstrations against the prisoner, who was soon shot, and, so far as I can learn, at the first fire, determined the guard to resist, which they did, and a scene of terrible slaughter immediately ensued which it is impossible accurately to describe. The guard were substantial men whom I could trust, and, as sworn officers of the law, were responsible for the safe-keeping and protection of the prisoner independent of any orders from myself. From the most reliable information I can get, after the prisoner was wounded, Judge Moses Alberty, attorney for defense, was shot while sitting at the clerk's table reading the evidence in the case. This gentleman died in his seat without speaking a word, one or both barrels of a shot-gun having been emptied in his breast by one of the assaulting party just outside the door. Samuel Beck, who was in front of the attacking column, then fell and died. The defendants then transferred the fight entirely outside of the small building, crammed as it was by the jury, judge, and spectators, by stepping outside. This no doubt would have been done before by my order or otherwise, had the least apprehension been entertained by the authorities interested that an assault of force so deadly was about to be made. A part of the guard, however, were outside at the time the firing commenced, and soon the battle raged around the building. It is not necessary to particularize the time and circumstances immediately connected with the fall of each victim of this unexpected, unprovoked, and I may say wholly unwarranted attack upon those concerned in the administration of justice in our country, even if I were able to state it all reliably. Suffice it to say that the fight is estimated to have lasted ten or fifteen minutes. The assailants then fled, and the authorities and citizens on the ground occupied themselves with taking care of the wounded and dead of both sides without distinction. Eight dead were hauled to the nearest residence from the court building and outside. One more was found back of the house a short distance, where he had run and fell after being mortally wounded. Another is said to have been found about a quarter of a mile off, in the direction the retreating party took, but I cannot vouch for this. The court after the combat was over, and no evidence of a continuance of the interruption appearing, adjourned till the next day, and all parties were soon engaged in the melancholy task of providing for the wounded and disposing of the dead. Of the former, Deputy Marshal Owens was shot through, and taken to Mrs. Whitmire's, where he received every attention possible under the circumstances. His honor the presiding judge, B. H. Sixkiller, was severely wounded in the wrist. The prisoner, as before stated, was seriously wounded in the leg at the beginning of the affray, the bullet remaining in the bone. William Beck was desperately wounded in the body; Isaac Vann badly in the elbow. Sut Beck, known as White Sut, who took the lead in the onslaught, is reported to be very badly wounded. One of the jurymen was shot through the shoulder. Several others are said to have been slightly wounded. The dead, as far as I can learn, are: Judge Moses Alberty, Andy Palone, Johnson Proctor, of whom Proctor and Alberty were unarmed and not engaged, and men of years. Both were killed by the assailants. Of the Becks, Samuel and Sut, known as Black Sut, were killed. Those who were engaged with them in making the assault and were killed were William Hicks and a son-in-law of the late Polly Chesterson, and two others whose names I am unable to give at present.

I have thought it my duty to be thus particular in giving an account of this deplorable affair that, should the national authorities see proper to move in the matter, it may do so upon as correct information as an officer on the ground at the time it first took place could give. My duty being first principally to the nation, I have no prejudices or feelings to indulge, either in acting myself, or in relating, as in this case, the actions of others.

I have only further to state that, even if it were proper for the deputy marshals to forcibly seize a prisoner from under charge of a Cherokee guard, and that during the holding of court for his trial, I cannot but think that a violent assault of the kind described, without previous warning, information, or demand whatever, is totally indefensible and unjustifiable. Having been informed by one of the deputy marshals that I will be held responsible personally for the resistance made by the guard, I feel it to be my duty to make a truthful statement of all the facts connected with the occurrence in my knowledge, and ask for instruction, and such support as the case and my position may require and justify. An important fact bearing upon the affair, in a legal view, is that Deputy Marshal Owens declares that he in vain attempted to restrain some of those who came with him, and that the arbitrary proceeding of interrupting the court then sitting, in the manner in which it was done, was in direct disobedience of his orders. This only serves to show that he condemned the conduct of his party, which precipitated the conflict, as such orders could not possibly have been expected to control or determine the conduct of the guard and authorities of the court, since they were not delivered in the hearing of the latter, and there was not the slightest ground to infer from anything said by the responsible members of the attacking party, if any, that they were acting only upon their own responsibility, while their actions intimated as plainly as possible that they were bent on bloody mischief.

Copy of the last two days' proceedings in the trial of Ezekiel Proctor.

MONDAY, *April* 15, 1872.

The special circuit court of Going Snake district met in pursuance to a call by the special presiding judge, Hon. Blackhaw Sixkiller, for the continuance of the trial of Ezekiel Proctor, charged with the murder of Polly Chesterson. Prisoner, and jury, as impaneled at last court, present. The solicitor demanded and disputed the authority of the judge to sit in this trial, questioning the power of the executive to give him authority to proceed after suspending. The answer of defense was, that the presiding judge had not been suspended, but only called before the executive council, to determine whether to suspend him or not on the charges preferred, and that the question had been determined in the negative, and the court ordered to proceed, which order or authority was being obeyed now.

During the progress of the discussion, an armed force of mixed whites and Cherokee citizens, the latter being concerned in the prosecution, made a murderous attack upon the prisoner, without any intimation of their intentions, and a promiscuous shooting immediately took place, in which his honor was wounded, as also was some of the jurymen, and a number of the men attending the ground killed. This unexpected and dreadful procedure broke up the trial for the day, and the court was adjourned till to-morrow 9 o'clock. The rest of the day was taken up with attending upon the wounded and dead.

TUESDAY, *April* 16.—Court, in consideration of the safety of those connected with the trial, and apprehending another possible interruption of its proceedings similar to yesterday, having due regard to the preservation of the public peace and the security of individuals, was called to meet near the Whitmire place, to wit, at the residence of Arch Scraper. Due notification of the place so selected had been given at the place of holding court the day before, and all of the jury were present who were able to attend. Another good and sufficient reason for meeting here was, that the prisoner was seriously wounded yesterday, and was lying at said Scraper's, unable to move with safety, but not waiving his right to be present at the trial. In consideration of the necessity of proceeding with the trial, if possible, and for the reasons stated above, the court was called and held accordingly, the prisoner not waiving his right to be present.

Present, prisoner, and all the jury but one, who had been wounded, and was unable to attend. The court impaneled another one, according to the form prescribed by law, to fill the place of the one unavoidably absent, after which the evidence was closed on part of defense, and the case submitted to the jury, who returned with the following verdict.

We, the jury, find the prisoner not guilty.

ARCH SCRAPER, *Foreman.*

And the court then adjourned *sine die.*

BLACKHAW SIXKILLER,
Judge Special Called Circuit Court Going Snake District.
JOSEPH M. STARR,
Clerk Circuit Court, Going Snake District.

[From the Cherokee Advocate, April 20, 1872.]

B.

Terrible tragedy—Attack upon a Cherokee court.

From time to time we have chronicled the postponement of the case of Ezekiel Proctor, charged with the murder of Polly Hildebrand, the last trial being set to come off last Monday, the 15th instant. We had business there, and arrived about half past 1 o'clock. And what a sight met our gaze when we rode up to the small school-house where the court had been called. Three men were lying just before the door-step in those negligent and still postures so terrifying to the living. Dark pools of blood issuing from each told the horrible story of the manner of their death. In the house, lying side by side, with their hats over their faces, lay three more bodies—one, all that was left of an old and valued friend. A few steps off, to the right of the door, lay the body of a man with light hair and blue eyes, which betokened his white extraction. Next to the chimney, behind the house, was another, and near by, partly supported against the wall, was a man groaning in the anguish of a a desperate wound. In the bushes, a little further off, was yet another corpse of a youth who had staggered there to die. Looking at the living we saw the presiding judge, B. H. Sixkiller, with his wrist bandaged, where he had been seriously wounded by two bullets. The prisoner was limping about with a bullet in the bone of his leg below the knee. Others were wounded more or less. At the nearest residence was lying, desperately wounded, Deputy Marshal Owens, a man generally respected on both sides of the "line." Some of the badly wounded we did not see, they having fled or been taken care of by their friends. The spectacle which harrowed our sight was the most awful, without any comparison, that we have ever witnessed.

Upon inquiring we learned that about half past 11 of that day a company of whites, headed by a Cherokee, appeared on the court ground, and without any premonition or intimation of their business commenced firing into the court-room, filled, as it was, with a promiscuous assemblage, judge, jury, and spectators, being crowded together in the small space, beyond distinguishment by a stranger. The newly arrived party had been just swelled to the number of about fifteen or eighteen by certain men interested in the prosecution of the case, who had been evidently awaiting the arrival of the former. The prisoner was wounded, and Judge Moses Alberty, an attorney for the defense, was killed by the first discharge. This displayed the object of the murderous attack, and the guard, consisting only of four or five men, whose duty it was to protect as well as hold and guard the prisoner, responded with a degree of unshaken resolution and courage which has rarely been paralleled in history. The attacking party was finally beaten off, and ran off, leaving their horses and some their weapons behind them, and not a few, comparatively, of their number dead on the scene of their lawless assault.

The details of the fight are sickening. We will not attempt to give them. It is enough that the officers in whom were confided the administration of justice, according to our law, were faithful to their trust in an extremely trying hour to the stoutest heart. Although we deplore the occasion which gave opportunity for the display of such heroic fidelity, we cannot but be gratified to know that the love of a Cherokee for the laws of his country can support such an ordeal unflinching.

There is no question as to the lawlessness of the assault upon the court. It is now said the party which came up headed by Sut Beck were marshals, and their *posse*, and their business was to arrest the prisoner, Ezekiel Proctor. Any other purpose or authority might as well be assigned for any indications of their business given by the party themselves. They said nothing formally. The white members said nothing at all. The Cherokees accompanying only opened their lips to order the sheriff and others to clear the way. The shooting was commenced by the assailants without notice or demand, and was, in short, totally unprovoked, and with "malice aforethought." Up to the time of the first shot by the company who made the onslaught no opposition had been made to their movements whatever. The Cherokee authorities were left in the dark as to their designs or desires, or were left to gather intimations of both wholly from the actions of the party; and the actions of the party were such that the only possible interpretation was that mischief of the most murderous sort was meant, unjustified by even the flimsiest pretext of authority.

What could a conscientious guard do but resist? And resistance meant the use of weapons which had been provided them in anticipation of just such a possible occasion. The odds against them were terrible, and hence we say that their conduct was not only right and lawful, but heroic.

Let this question, involving, while still unsettled, such dreadful scenes and so much individual suffering and loss, be settled without delay. It should have been settled long since. Here we see the consequences of the careless surrender of one of our main national rights, as guaranteed by treaty, when called in question before the United States district court in cases which were thought too insignificant to notice. If we had been sustained in our claim of jurisdiction in all matters over adopted citizens, there would have been none of this awful slaughter. But our treaty further gives us the right to an internal administration of justice ourselves without hinderance or interruption. Particularly should we be and are we allowed the exercise of this right unhindered when a prisoner, arrested in conformity to our law, is being tried by his country. Without it our privilege of self-government is a farce.

[From the Arkansas Mountain Echo, Fayetteville, April 17, 1872.]

C.

War on the Frontier; eight Indians and three white men killed, thirteen wounded. United States Deputy Marshal Owens mortally wounded.

Some time last February a Cherokee half-breed, by the name of E. Proctor, a noted desperado, shot and killed a Cherokee woman, and attempted to shoot her husband, a white man.

For killing the woman he was arrested and being tried at the Going Snake court-house, Judge Sixkiller, in the Cherokee Nation. The trial had been in progress several days, when some of the jury openly asserted that they would acquit him.

The Cherokee half-breeds and lovers of law and order, knowing this, had notified the United States marshal of the fact, and Deputy Marshals Jo. Peavy and Owens were sent to arrest him for attempting to kill the white man, if he was acquitted by the Indian jury. On Monday last Peavy and Owens, with a *posse* of eighteen men, went to the court-house, where they proposed to wait the decision of the jury, and if the prisoner was convicted to let him remain, but if acquitted to take him to Fort Smith. The Indians had evidently expected them, as they were all armed, from the judge to the prisoner, the latter of whom had a Spencer repeating rifle. As soon as the marshals approached the door, although they said they came there for no fuss, the Indians opened fire upon them from within the house, which they had prepared for, by taking out the "chinking," &c., and killed of the marshal's *posse* five Cherokees and three white men, and wounding many more. Of the Indians, three were killed outright and several wounded. The prisoner and his attorney, M. Alberty, and the judge were wounded, and a brother of the prisoner was killed. Of the white men killed, one was George Selvage, of Bentonville; ——— Ward, of Fort Smith; and a young man whose name we could not learn. Deputy Owens was shot through the abdomen and mortally wounded. The killed and wounded were left on the field, except those slightly wounded, who could make their escape. The Indians refused to let the friends of the dead come to take them away.

Our informant, Mr. S. Beck, a Cherokee, (almost white,) is now at Mrs. Doyle's hotel with a bullet in his shoulder. He was standing in the court-house door when the firing first commenced, and fired the second shot himself. He was not wounded until the fight was over, and he was some three hundred yards on his retreat. He went to Cincinnati, but being notified that the "full-bloods" were coming to take and hang him, came to this place, where he arrived last night. There are several men of his neighborhood who, with himself, were of the *posse*, who dare not go back to their homes for fear of being killed by the full-bloods.

Incident of the fight.—Sut Beck, known as White Sut, led the party which assaulted the court in Going Snake. He was a relative of the deceased and had been actively engaged in prosecuting Proctor. The first thing he said was to order the sheriff, who was near the door in the house, to stand out of the way, and when the sheriff did, to say to prisoner, who was just behind, "You d——d coward," shoving toward him a double-barrel shot-gun, cocked and presented. The muzzle coming in reach of Proctor, he caught it and bore it downward so quickly that it was mostly discharged between his legs, only one ball entering the leg below the knee, and becoming embedded in the bone. William Hicks, a friend of the Becks, who was on the ground before the attacking party came up, attached himself to it on their arrival, and in the course of the battle was met by Andy Palone, who was voluntarily defending the court. These two, it is said, fired at each other, until Palone fell, and Hicks, who had been swearing dreadfully during the whole combat, was mortally wounded.

Later.—On Wednesday evening, Deputy Marshal C. F. Robinson, accompanied by Dr. C. F. Pierce, arrived here from Fort Smith, having come by the way of the Going Snake court-house, the scene of the dreadful tragedy. He brought with him as far as the place a force of some twenty or twenty-five men sent out under his charge from the marshal's office, at Fort Smith, and accompanied by Drs. Julian C. Fields and C. F. Pierce.

Deputy Marshal Owens died late Tuesday evening; William Beck, son of Jeffrey Beck, was still at the court-house or near there. He received from the physicians all the attention possible, but cannot possibly recover. All the others who were wounded had, we believe, been carried away.

The bodies of Owens and Ward have been taken to Fort Smith. The

SYRACUSE UNIVERSITY

following are the names of all the killed and wounded as given to us by Deputy Marshal Robinson:

Of the assaulting party killed.—J. G. Owens, deputy marshal; James Ward, Riley Wood, Sam Beck, George Selvage, William Hicks, Sut Beck, nephew of Jeffrey Beck.

Wounded.—William Beck, mortally; Sut Beck, son of Jeffrey Beck; George McLaughlin, Paul Jones.

Of the others killed.—Moses Alberty, Johnson Proctor, Andy Palone.

Wounded.—Zeke Proctor, Judge Sixkiller, Isaac Vann, Ellis Foreman, Joe Choney, John Proctor.

A demand.—The object of Deputy Marshal Robinson in coming here was to make a demand upon the chief (under instructions) for those who resisted the attack made by the marshal's force. He saw the chief on Thursday and started back the same day; but we are unable to state any further facts regarding the matter.

TAHLEQUAH, CHEROKEE NATION,
April 18, 1872.

DEAR SIR: I have the honor to demand the surrender of the following-named citizens of the Cherokee Nation. Said parties were concerned in the attack made on Deputy United States Marshals J. G. Owens and J. G. Peavy, and their *posse comitatus*, at Going Snake district courthouse:

Jessie Shell, Zekiel Proctor, Soldier Sixkiller, One Sixkiller, Thomas Walkingstick, John Creek, John Proctor, Icae Van, Ellis Foreman, Joe Channey, and the jury that was impaneled to try Zekiel Proctor.

Yours, very respectfully,

CHARLES F. ROBINSON,
Deputy United States Marshal.

LEWIS DOWNING, ESQ.,
Chief of Cherokee Nation.

DEPARTMENT OF JUSTICE,
Washington, May 3, 1872.

SIR: Referring to my letter of the 30th ultimo, I now have the honor to inclose a copy of a communication just received from the marshal of the United States for the western district of Arkansas, in relation to the late outrages committed in the Cherokee Nation.

Very respectfully,

B. H. BRISTOW,
Solicitor General and Acting Attorney General.

HON. C. DELANO,
Secretary of the Interior.

FORT SMITH, ARKANSAS, *April* 26, 1872.

SIR: I have the honor to acknowledge the receipt of your telegram of the 22d, in regard to troubles in the Cherokee Nation. It reads "Choctaw Nation," but I presume it means "Cherokee Nation," as the removal of settlers from the Choctaw Nation is being done under the superintendence of the military authorities.

I made a report to James H. Huckleberry, esq., district attorney, (a copy of which report he inclosed in a communication to the Department of Justice,) of my action in regard to the attack made by a party of Cherokees on Deputy Marshals J. G. Owens and J. G. Peavy, and their *posse comitatus*, at Going Snake district court-house, up to the time of the return of Deputy Marshal C. F. Robinson's party, whom I had dispatched more as a rescuing party than anything else, having been compelled to do so on account of the attempt of the murderers to murder the wounded men, some of whom, for safety, had to be removed thirty miles within the State of Arkansas.

In the reply to the demand on the chief of the Cherokee Nation, Lewis Downing, for the surrender of the parties implicated, he replied that he did not recognize the authority of the United States marshals to make such a demand. It was made with the view of preventing further bloodshed.

Since then I have dispatched Deputy Marshal J. G. Peavy and F. M. Shannon, with a small *posse comitatus*, to Going Snake district to protect, as far as possible, the Cherokees who are desirous of seeing the United States laws upheld in the Cherokee Nation. They have instructions also to arrest, if possible without bloodshed, the parties implicated in the late outrage.

Deputy Marshal W. H. Johnson reports to me that, about seven days after the affair, three Indians, armed to the teeth and painted, went into Webber's Falls, in the Cherokee Nation, looking, as they said, for deputy marshals, threatening to shoot them at sight. He also states that they purchased fifteen or twenty pounds of powder and lead, to be used in murdering deputy marshals.

This disposition of resistance to the authorities of the United States is very common among the full-blood Cherokees, and I might say, without exaggeration, is shared by all, rendering it very unsafe for a United States officer to travel through their country unless accompanied by a strong *posse comitatus*.

I inclose an article on the subject of the late outrage, taken from the New Era of this city.

I will take no further steps in this matter, but will wait instructions from the Department.

I am, sir, very respectfully, your obedient servant,

LOGAN H. ROOTS,
United States Marshal,
By J. W. DONNELLY,
Deputy in Charge of Office.

Hon. GEORGE H. WILLIAMS,
United States Attorney General, Washington, D. C.

DEPARTMENT OF JUSTICE,
Washington, April 30, 1872.

SIR: I have the honor to acknowledge, through your reference, the receipt of a copy of Senate resolution of the 23d instant, asking for certain information in regard to the acts of the United States marshals and their deputies in that portion of the western district of Arkansas now comprising the Indian country, and also for all information in the possession of the Departments relating to the late outrages at Whitmore, Barron Fork, in the Cherokee Nation.

I inclose herewith a copy of a letter to this Department from the United States attorney for the western district of Arkansas, and a copy of one to him from Deputy Marshal Donnelly, in relation to the alleged outrages referred to. These letters contain all the information I am able to furnish touching this matter.

Very respectfully, your obedient servant,

B. H. BRISTOW,
Solicitor General and Acting Attorney General.

Hon. C. DELANO,
Secretary of the Interior.

FORT SMITH, ARKANSAS, *April* 18, 1872.

SIR: I desire to call your special attention to a very aggravated resistance of United States authority, in which Deputy Marshal Jacob Owens and seven of his *posse* were murdered, and several others severely wounded, and request that you ask the President of the United States to make a demand of the chief of the Cherokee Nation for the surrender of the persons engaged in the assassination.

Some time ago one Proctor went to the house of one Chesterson, a white man, and brutally murdered his wife, who was an Indian woman, and also shot him in the head, making a very dangerous wound; and feeling that the murderer of his wife would be cleared in the Cherokee court, applied to James O. Churchill, esq., United States commissioner, for a writ. The commissioner issued a *capias*, and placed the same in the hands of Jacob Owens and Joseph Peavy, United States deputy marshals, and requested them to repair to the place where the trial was progressing, and if the prisoner, Proctor, was cleared, to then arrest him for the assault with intent to kill the said Chesterson, he being a white man and the United States having jurisdiction over the same.

The marshals with their *posse* repaired to the place of holding court, (in the Going Snake district,) they having previously summoned several persons (Indians) to be present to aid in the arrest, as it was generally understood that said Proctor would not surrender without resistance.

On approaching the court-house the marshals observed several men go around the house with arms in their hands. Deputy Peavy then observed that they (the *posse*) had better ride to the rear of the house, as he believed there would be a difficulty. Deputy Owens then stated that he thought there would be no resistance, and they all rode up in front of the house, hitched their horses, and started to the house. Deputy Marshal Owens instructed his men to be quiet and peaceable, when several men came to the door and fired on the marshals; the fight then became general. The guards, jury, lawyers for defense, and prisoner participated in the fight. The marshals' force being few in number and outside of the house were badly cut up, and were compelled to leave the field, leaving seven dead, and one or two mortally wounded. The marshal, Jacob Owens, has since died of the effects of his wounds. I inclose a letter from Deputy Marshal James W. Donnelly, the clerk for marshal of this district, and also a report of the difficulty in the various newspapers of this city.

I have just had a conversation with Mr. I. A. Scales, an attorney employed in the prosecution of Proctor in the Cherokee courts, who gives substantially the following account of Cherokee justice as meted out by their courts. The presiding judge, Tim Walker, being a relation to the party, was disqualified from acting as judge, and the chief appointed Thomas Woolf to act as special judge. The defendant, or some one of his friends, approached Judge Woolf, and requested that he place twelve names on the list of jurors, (it being the duty of the judge to place twenty-four names on the list, and the defendant then selects twelve men to try him;) he refused to do so on three separate occasions, and then resigned. The chief then appointed Blackhaw Sixkiller to act as judge, and he permitted part of the names to be placed on the list of jurors, and they went into the trial. The trial progressed four days, and the judge was suspended on account of charges preferred against him, but was afterward restored by the chief to act, and moved the place of holding court to the school-house, where the difficulty occurred, it being a better place to resist United States marshals. The judge dismissed the *posse* of the sheriff, and turned the prisoner over to a guard of his friends. The whole thing developed the fact that a deliberate plan was formed by Cherokee authorities to clear Proctor of the crime of murder, and to resist the United States marshals and their *posse.* The parties who resisted on this occasion are a part of the same who resisted the marshals a year ago last October, and also who murdered Deputy United States Marshal Bentz, a couple of months ago.

There seems to be a deliberate plan among that class to stand by each other, to do whatever is in their power to clear each other of crime, and to rescue a prisoner when arrested by the marshal, as they have on former occasions, and to murder the officers whenever they attempt to execute the process of the court.

Deputy Marshal Owens was one of the best officers on the force; a quiet, peaceable gentleman, esteemed by all who knew him as an honorable high-toned gentleman, and the Department has lost one of her best officers in his death. I earnestly hope that you may take such steps as you think proper to have the perpetrators brought to justice. Unless the Cherokee authorities aid the United States, it is very doubtful whether or not, with the limited force in our hands, we can make the arrests. On hearing of the resistance to the marshals, Mr. James W. Donnelly, in the absence of the marshal, very promptly dispatched a force to the scene of the difficulty, who buried the dead and brought away the wounded.

They report on their return that the judge held court the day after, cleared Proctor, and that Proctor had fallen back to Rabbit Trap, in the mountains, and that he had fifty men under his command and was fortified. The marshal did not think it prudent to attack Proctor, so he sent his *posse* back to this place, and he and Dr. Pierce, the surgeon, went to Tahlequah to make a demand on the chief for Proctor and those engaged with him in the murder of Owens and his *posse.* We have had great difficulty to contend with in that part of the Cherokee Nation. Four persons were convicted at the May and November terms of 1871 for resisting the marshal's forces in this same neighborhood, in which Deputy Marshal Bentz was murdered, and also near the place where Owens and his *posse* were murdered.

The Cherokee authorities do nothing to aid us in making arrests; in fact they throw all the obstacles possible in the way of the United States authority; and to be tried in Indian courts, as was demonstrated in the trial of Proctor, is the merest farce. No one is ever convicted for high offenses, and they have no law for assault with intent to kill.

Since the trial the Cherokee authorities have indicted several Cherokees for entering into a conspiracy to take a prisoner out of the hands of the court, and if they are found guilty the punishment is death. They are a part of the *posse* summoned by the marshal to assist in making the arrest, and were acting in strict accordance with instructions, and were assaulted by Proctor and his party, and only acted in self-defense. I have no doubt if Judge Blackhaw Sixkiller acts as judge, and they have Proctor and his forces armed, they can convict them. In fact they threatened to take the life of any one who furnished information or aided the marshal's force in making arrests.

Please send such instructions as you think proper, so that those engaged in violation of law may be brought to justice.

I have the honor to be, very respectfully, your obedient servant,

JAMES H. HUCKLEBERRY,
United States District Attorney of the Western District, Arkansas.

Hon. GEORGE H. WILLIAMS,
Attorney General, Washington, D. C.

OFFICE UNITED STATES MARSHAL,
WESTERN DISTRICT ARKANSAS,
Fort Smith, Arkansas, April 20, 1872.

DEAR SIR: On the 11th of April information was filed before James O. Churchill, esq., United States commissioner, by Om. Chesterson, a white man, that Ezekiel Proctor, a Cherokee Indian, committed an assault with intent to kill upon him, at the same time murdering his (Chesterson's) wife, a Cherokee woman.

Colonel Churchill issued a writ for Proctor upon the charge of assault with intent to kill, and it was placed in the hands of J. G. Peavy and J. G. Owens, deputy United States marshals, for service, with instructions to proceed to Going Snake district court-house, in the Cherokee Nation, where Proctor was being tried for the murder of Chesterson's wife, and in the event of Proctor's being acquitted, to arrest him at once, and bring him to Fort Smith for examination. Deputy Marshal Bentz having been killed but a short time before, while engaged on a similar service, the deputies summoned a strong *posse comitatus*, and were joined in the Cherokee Nation by several Indians, who were desirous of seeing the offender brought to justice.

On Monday, the 15th, Peavy and Owens, accompanied by their *posse*, arrived at the court-house, and, dismounting, hitched their horses within thirty yards of the building. They then advanced, Deputy Owens cautioning his companions to be careful and make no hostile demonstrations. Upon arriving within a few feet of the building the deputies perceived that it was filled with armed men, and that they were preparing to make an attack upon them.

Deputy Peavy called to them, stating that he was a United States officer, and that he did not desire any trouble. At this moment a gun was discharged from the building, and in an instant the firing became general. In the space of three minutes seven of the marshal's party were killed, three severely wounded, and Deputy Owens mortally wounded, and has since died. Of the attacking party three were killed and seven wounded, making altogether eleven killed and ten wounded.

Deputy Peavy, assisted by Joseph Vannoy, one of his *posse*, succeeded in taking Deputy Owens to a house within a half mile of the court-house, and at once dispatched to me a messenger for re-enforcements to protect

Owens, and, if possible, to arrest the murderers, as it was reported that the Indians intended killing Owens.

I immediately raised, mounted, armed, and equipped a force of twenty-one men, whom I placed under the command of C. F. Robinson, and dispatched him at once to Mrs. Whitmire's, in the Cherokee Nation, at whose house Owens was then lying. I also sent by him a formal demand on the chief of the Cherokee Nation for the surrender of the murderers.

Upon arriving at Mrs. Whitmire's Mr. Robinson ascertained that the Indians, to the number of eighty, had taken their wounded and retreated to the mountains, and, under the circumstances, he did not feel justified in following them with the handful of men under his command.

After caring for the wounded and sending the body of Deputy Owens, (who had died before he arrived,) to Cincinnati, Arkansas, Mr. Robinson sent his detachment back to this place in charge of Deputy Joe Tinker, while he, (Mr. Robinson,) accompanied by C. W. Pierce, proceeded to Tahlequah to present to the chief the demand for the surrender of the parties.

After carefully weighing all the testimony at my command, I have come to the conclusion that this cowardly attack upon United States officers, in the lawful discharge of their duties, was premeditated and carefully planned.

The woman killed by Proctor was a sister to a large and influential family in the Cherokee Nation, by the name of Beck. The Becks were of course desirous of having Proctor punished, and for this reason joined the marshal's *posse* to assist in making his arrest if he was acquitted in their courts. The judge of the Cherokee court was a warm friend of the Proctors, and would not permit any of the friends of the Becks to come to the court-house armed, although all of Proctor's friends were armed.

On Monday morning, instead of holding his court at the court-house, which was quite an open building, he removed it to the school-house, in which there were but few windows, and from which they could fire on any person without with impunity. He also removed the sheriff's *posse* and permitted Proctor to be guarded by his own relatives, Proctor himself being armed. He also permitted Proctor to place on the jury men whom he (Proctor) selected. The judge was armed, as was also the jury and every man in the building. And the day after the fight he held court and acquitted Proctor of the murder of Mrs. Chesterson.

These Proctors and their friends, among whom is this judge, belong to an association in which the members are sworn to kill every Indian or citizen of the Cherokee Nation who gives testimony or information in United States courts against another Indian or citizen of the Cherokee Nation.

This association is not confined to this locality, but has its ramifications all over the Cherokee Nation. I am informed that this association was organized before the late war by one John Jones, United States Indian agent, and I believe Indian agent for the Cherokees now, and the members were known as the "Pin Indians."

This information was given to me by a gentleman who has become a citizen of the Cherokee Nation.

Taking all these things into consideration, I am compelled to believe that it was a well-laid plan of resistance to the United States laws. How well it was executed you can judge for yourself.

Owing to the limited force at the disposal of the marshal, these parties will not be brought to justice unless an organized force is sent into the Cherokee Nation. I have no expectation of any assistance being rendered by the chief, as it is hinted that he is in part responsible for this massacre of United States officers. I am informed on reliable authority that he has used his influence to procure the acquittal of Proctor; and that he knew for several days, if the United States officers attempted his arrest, there would be a fierce resistance and many lives lost. Knowing this, he did not inform the officers of the Government.

Mr. Owens was one of our best and most careful deputies; he was esteemed and respected by all who knew him, and his death will be a great loss to the Department. This affair becomes more lamentable from the fact that all of the white men killed had families dependent on them for support, who are thus thrown upon the cold charities of the world. These outlaws should be held to a strict accountability for the desolation they have caused.

I would suggest that a company of cavalry be ordered from Fort Sill, if they can be spared, to co-operate with the civil authorities in effecting their capture; without them no good can be done, and it will be absolutely unsafe for any white man to travel through that country.

I omitted to mention that Deputy Peavy, after the fight, was compelled to remove one of our wounded Indian friends to Cincinnati, Arkansas, to prevent the Proctor party from killing him. He was soon after followed to that place by Proctor's friends, who would undoubtedly have carried their threats into effect had it not been for the opportune arrival of Deputy Marshal George F. Deane, accompanied by three *posse coms.*, who put the outlaws to flight.

I would also state that the party sent out under Mr. Robinson conducted themselves in a very law-abiding manner, committing no acts of retaliation in the Indian country.

In the absence of Colonel Roots, I feel compelled to submit this statement to you, in order that you might take such steps in the matter as will bring it properly before the Department at Washington.

Very respectfully, &c.,

J. W. DONNELLY,
Deputy United States Marshal, in charge of Office.

Hon. JAMES H. HUCKLEBERRY,
United States District Attorney,
Western District Arkansas, Fort Smith, Arkansas.

[Telegram.]

WESTERN UNION TELEGRAPH COMPANY,
Muskogee, Indian Territory, April 27, 1872.

F. A. WALKER, *Commissioner Indian Affairs, Washington, D. C.:*

Have visited Tahlequah, and all is quiet. The tragedy originated from imprudent interference by Federal authority with Cherokees' laws while being duly executed under treaty rights. No apprehension of further violence. The Cherokee authorities have done and will do all that justice can require. Report by mail.

ENOCH HOAG,
Superintendent Indian Affairs.

WASHINGTON, D. C., *April* 29, 1872.

SIR: We inclose you a copy of a letter from the executive of the Cherokee Nation in regard to the late deplorable difficulty at the court-house in Going Snake district. By the official report of the sheriff of the court, it appears that Deputy Marshal Peavy's party approached the court-house, while the court was in session, as an armed body. They exhibited no process, and did not attempt to serve any, or to declare who or what they were, but commenced proceedings by firing on people in the court-house, most of whom were unarmed. There was an armed guard with the prisoner, but these did not return the fire until their assailants had shot the prisoner in their charge and killed his counsel, Mr. Moses Alberty, who was sitting quietly and unarmed at the table examining the evidence.

We have since learned from a trustworthy source that demand has been made by the United States marshal at Fort Smith of the authorities of the nation for the judge, sheriff, and jurors of the court. As this shows a determination to make further mischief and to trample on Cherokee rights, we respectfully request you to take such steps as may be best adapted to stay such proceedings and prevent the further spread of these difficulties.

We are, with respect, your obedient servants,

WILL. P. ROSS,
W. P. ADAIR,
C. N. VANN,
Cherokee Delegation.

Hon. B. R. COWEN,
Acting Secretary of the Interior.

EXECUTIVE DEPARTMENT CHEROKEE NATION,
Tahlequah, April 17, 1872.

GENTLEMEN: It has become my duty to present for your immediate and earnest attention, as representatives of this nation, before the Government of the United States, a question of great practical importance, in which our rights as a nation and the quiet of the country are involved. I refer to the right of *arrest* claimed by the marshal of the western district of Arkansas over the citizens by birth of this nation, where such citizens are held to answer a criminal charge instituted in pursuance of our law, and are being tried by the Cherokee courts for an offense. Or, putting the question more *precisely*, whether the right, authority, and privilege of the Cherokee Nation to regulate its own internal affairs in criminal cases, where its native citizens only are concerned, recognized, confirmed, and guaranteed as such right is by all the treaties between this nation and the United States Government, may be rightly abridged, restrained, and for the time denied, in the very act of its existence, by the service of a writ of arrest upon the prisoner emanating from the judicial authorities of the United States. But the exact statement of the point of difference involved, as, also, the proper remedy to be sought in connection therewith, I leave to your intelligence and discretion, and will now proceed to briefly state, for your information, certain facts officially reported to this department yesterday, by the sheriff of Going Snake district, which, while they indicate the fact and nature of the conflict of authority referred to, make all proper efforts to settle the question immediately and imperatively necessary.

On Monday, the 15th instant, the circuit court of Going Snake district was called and held at the usual place to try Ezekiel Proctor, a native Cherokee, for the murder, as charged, of Polly Chesterson, also a native Cherokee. After the court had been convened in the morning, and while it was still in session, a company of armed white men, (about nine,) guided or led by a Cherokee who had taken an active part in the prosecution, rode up and dismounted in silence. The party then instantly formed in column and marched rapidly to the court-house door, quickening their pace as they went, and cocking their guns and other weapons. No one had yet given the least explanation of their action or intimation of their object. As they formed in column and marched as stated, they were re-enforced by several men, Cherokee citizens, who had previously arrived on the grounds. These last, like the one who led, had been actively engaged in the prosecution of the prisoner. The one in advance, or one of those in advance, meeting the sheriff at the door, said to him, with gun cocked and presented, to "Clear the way," and immediately one of the party fired into the house at some one, supposed to be at the prisoner, as he (the prisoner) was wounded first. So far the conduct of the whole party unmistakably pointed to, and could only be construed as, an unauthorized and lawless assault, with malicious intent upon the life and person of the prisoner and perhaps others; no authority to arrest having been produced or claimed, nor was even so much as an intimation to arrest declared, nor anything said except by persons known to be irresponsible and vested with no official authority whatever; what was said being expressive of contempt of and defiance of the court authorities present, and indicative of a desperate and lawless purpose.

The shot which wounded the prisoner was, with scarcely a moment's interval, followed by another, which killed Judge Moses Alberty, one of the attorneys for defense, who had been sitting prior to the attack at the clerk's table, reading the testimony in the case. The fact that he died in his seat, no chance being given him to move from his exposed situation, just before the doorway, shows that he must have been killed by the first or second discharge, there being hardly any interval between them.

The awful nature and deadly purpose of the assault being thus made apparent, resistance from the lawful protectors of the court, the prisoner's guard, immediately followed, and a scene of slaughter took place sickening to relate. Ten men were killed dead on the ground, most of whom were Cherokees, and a number wounded, some, it is feared, mortally. Deputy Marshal Owens was among the latter. He died the second night following. His honor Judge B. H. Sixkiller was severely wounded, as also were two of the select jurymen, one of the latter severely. The assailants, after fighting ten or fifteen minutes, fled, and the court, thus violently interrupted, adjourned for the day to make provisions for the dead and the wounded.

It is said, and no doubt truly, that one or more of the parties besides Owens were deputy marshals, holding a warrant of arrest against the then prisoner from the United States judicial authorities at Fort Smith, and that those who accompanied them, or a part of them, were the marshal's *posse*. If so, there was nothing in their proceeding on the occasion which gave to those concerned, to wit, the court, the prisoner, and the guard, the least intimation of those facts, without mentioning the more material one, of their authority in the present instance, and any lawful object to be subserved by such violence. One of the deputy marshals, I am reliably informed, has asserted since that he knew no one present. It is just to suppose that he and his accompanying *posse*, if any, were equally unknown to these whom their conduct most vitally concerned, and who with no justice can be held responsible for such ignorance. And if they did not know the persons of the deputy marshals, it is not unreasonable to suppose that they could hardly know the capacity in which the said deputies were acting, or the nature of their true business, if it was not what it seemed to be, without being enlightened. But, though the course of the deputy marshals in this instance is indefensible in any light, even granting that they had a warrant for the prisoner, and might lawfully serve it at the time and place of the tragedy, the important fact remains that the right to do so is undetermined and disputed, as plainly conflicting with our treaty pledges, exclusive right to the unhindered administration of justice among ourselves as a nation, and that while the question remains unsettled it is a fruitful source of great difficulty, and fraught with imminent danger to the peace of the country.

I earnestly solicit you to do what lies in your power to bring the question at issue before the proper Department of the General Government, as soon as possible, in such form as will appear to you best adapted to settle it permanently. I am assured that, though the conduct of the United States officers in the affair, as described to you, was wholly unwarranted upon any ground, the calamity would not have occurred had they had a proper conception of their duty and authority in the premises.

I remain, very respectfully, your obedient servant,

LEWIS DOWNING,
Principal Chief Cherokee Nation.
J. B. WOLF,
Secretary.

MESSRS. ROSS, ADAIR, and VANN,
Delegates Cherokee Nation.

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